

ASSEMBLY BILL

No. 1371

Introduced by Assembly Member Sharon Runner

February 22, 2005

An act to amend Section 1720 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 1371, as introduced, Sharon Runner. Public works.

Existing law relating to the payment of prevailing wages, as specified, generally defines a “public work” as construction, alteration, demolition, installation, or repair work that is done under contract and that is paid for in whole or in part out of public funds, as defined.

This bill would make technical, nonsubstantive changes to this general definition of a “public work.”

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1720 of the Labor Code is amended to
2 read:
3 1720. (a) As used in this chapter, “public works” means:
4 (1) Construction, alteration, demolition, installation, or repair
5 work done under contract and paid for in whole or in part out of
6 public funds, except work done directly by any public utility
7 company pursuant to order of the Public Utilities Commission or
8 other public authority. For purposes of this paragraph,
9 “construction” includes work performed during the design and

1 preconstruction phases of construction including, but not limited
2 to, inspection and land surveying work.

3 (2) Work done for irrigation, utility, reclamation, and
4 improvement districts, and other districts of this type. “Public
5 work” does not include the operation of the irrigation or drainage
6 system of any irrigation or reclamation district, except as used in
7 Section 1778 relating to retaining wages.

8 (3) Street, sewer, or other improvement work done under the
9 direction and supervision or by the authority of any officer or
10 public body of the state, or of any political subdivision or district
11 thereof, whether the political subdivision or district operates
12 under a freeholder’s charter or not.

13 (4) The laying of carpet done under a building
14 lease-maintenance contract and paid for out of public funds.

15 (5) The laying of carpet in a public building done under
16 contract and paid for in whole or in part out of public funds.

17 (6) Public transportation demonstration projects authorized
18 pursuant to Section 143 of the Streets and Highways Code.

19 (b) For purposes of this section, “paid for in whole or in part
20 out of public funds” means all of the following:

21 (1) The payment of money or the equivalent of money by the
22 state or political subdivision directly to or on behalf of the public
23 works contractor, subcontractor, or developer.

24 (2) Performance of construction work by the state or political
25 subdivision in execution of the project.

26 (3) Transfer by the state or political subdivision of an asset of
27 value for less than fair market price.

28 (4) Fees, costs, rents, insurance or bond premiums, loans,
29 interest rates, or other obligations that would normally be
30 required in the execution of the contract, that are paid, reduced,
31 charged at less than fair market value, waived, or forgiven by the
32 state or political subdivision.

33 (5) Money loaned by the state or political subdivision that is to
34 be repaid on a contingent basis.

35 (6) Credits that are applied by the state or political subdivision
36 against repayment obligations to the state or political subdivision.

37 (c) Notwithstanding subdivision (b):

38 (1) Private residential projects built on private property are not
39 subject to the requirements of this chapter unless the projects are

1 built pursuant to an agreement with a state agency,
2 redevelopment agency, or local public housing authority.

3 (2) If the state or a political subdivision requires a private
4 developer to perform construction, alteration, demolition,
5 installation, or repair work on a public work of improvement as a
6 condition of regulatory approval of an otherwise private
7 development project, and the state or political subdivision
8 contributes no more money, or the equivalent of money, to the
9 overall project than is required to perform this public
10 improvement work, and the state or political subdivision
11 maintains no proprietary interest in the overall project, then only
12 the public improvement work shall thereby become subject to
13 this chapter.

14 (3) If the state or a political subdivision reimburses a private
15 developer for costs that would normally be borne by the public,
16 or provides directly or indirectly a public subsidy to a private
17 development project that is de minimis in the context of the
18 project, an otherwise private development project shall not
19 thereby become subject to the requirements of this chapter.

20 (4) The construction or rehabilitation of affordable housing
21 units for low- or moderate-income persons pursuant to paragraph
22 (5) or (7) of subdivision (e) of Section 33334.2 of the Health and
23 Safety Code that are paid for solely with moneys from a Low and
24 Moderate Income Housing Fund established pursuant to Section
25 33334.3 of the Health and Safety Code or that are paid for by a
26 combination of private funds and funds available pursuant to
27 Section 33334.2 or 33334.3 of the Health and Safety Code do not
28 constitute a project that is paid for in whole or in part out of
29 public funds.

30 (5) "Paid for in whole or in part out of public funds" does not
31 include tax credits provided pursuant to Section 17053.49 or
32 23649 of the Revenue and Taxation Code.

33 (6) Unless otherwise required by a public funding program,
34 the construction or rehabilitation of privately owned residential
35 projects is not subject to the requirements of this chapter if one or
36 more of the following conditions are met:

37 (A) The project is a self-help housing project in which no
38 fewer than 500 hours of construction work associated with the
39 homes are to be performed by the homebuyers.

1 (B) The project consists of rehabilitation or expansion work
2 associated with a facility operated on a not-for-profit basis as
3 temporary or transitional housing for homeless persons with a
4 total project cost of less than twenty-five thousand dollars
5 (\$25,000).

6 (C) Assistance is provided to a household as either mortgage
7 assistance, downpayment assistance, or for the rehabilitation of a
8 single-family home.

9 (D) The project consists of new construction, or expansion, or
10 rehabilitation work associated with a facility developed by a
11 nonprofit organization to be operated on a not-for-profit basis to
12 provide emergency or transitional shelter and ancillary services
13 and assistance to homeless adults and children. The nonprofit
14 organization operating the project shall provide, at no profit, not
15 less than 50 percent of the total project cost from nonpublic
16 sources, excluding real property that is transferred or leased.
17 Total project cost includes the value of donated labor, materials,
18 architectural, and engineering services.

19 (E) The public participation in the project that would
20 otherwise meet the criteria of subdivision (b) is public funding in
21 the form of below-market interest rate loans for a project in
22 which occupancy of at least 40 percent of the units is restricted
23 for at least 20 years, by deed or regulatory agreement, to
24 individuals or families earning no more than 80 percent of the
25 area median income.

26 (d) Notwithstanding any provision of this section to the
27 contrary, the following projects ~~shall~~ are not, solely by reason of
28 this section, be subject to the requirements of this chapter:

29 (1) Qualified residential rental projects, as defined by Section
30 142 (d) of the Internal Revenue Code, financed in whole or in
31 part through the issuance of bonds that receive allocation of a
32 portion of the state ceiling pursuant to Chapter 11.8 of Division 1
33 (commencing with Section 8869.80) of the Government Code on
34 or before December 31, 2003.

35 (2) Single-family residential projects financed in whole or in
36 part through the issuance of qualified mortgage revenue bonds or
37 qualified veterans' mortgage bonds, as defined by Section 143 of
38 the Internal Revenue Code, or with mortgage credit certificates
39 under a Qualified Mortgage Credit Certificate Program, as
40 defined by Section 25 of the Internal Revenue Code, that receive

1 allocation of a portion of the state ceiling pursuant to Chapter
2 11.8 of Division 1 (commencing with Section 8869.80) of the
3 Government Code on or before December 31, 2003.

4 (3) Low-income housing projects that are allocated federal or
5 state low-income housing tax credits pursuant to Section 42 of
6 the Internal Revenue Code, Chapter 3.6 of Division 31
7 (commencing with Section 50199.4) of the Health and Safety
8 Code, or Section 12206, 17058, or 23610.5 of the Revenue and
9 Taxation Code, on or before December 31, 2003.

10 (e) If a statute, other than this section, or a regulation, other
11 than a regulation adopted pursuant to this section, or an
12 ordinance or a contract applies this chapter to a project, the
13 exclusions set forth in subdivision (d) do not apply to that
14 project.

15 (f) For purposes of this section, references to the Internal
16 Revenue Code mean the Internal Revenue Code of 1986, as
17 amended, and include the corresponding predecessor sections of
18 the Internal Revenue Code of 1954, as amended.

19 (g) The amendments made to this section by either Chapter
20 938 of the Statutes of 2001 or ~~the act adding this subdivision~~
21 *Chapter 1048 of the Statutes of 2002* shall not be construed to
22 preempt local ordinances requiring the payment of prevailing
23 wages on housing projects.